



# NEWS

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## **SUMMARY OF CASES ACCEPTED DURING THE WEEK OF MARCH 27, 2000**

[This news release is issued to inform the public and the press of cases that the Supreme Court has accepted and of their general subject matter. The description or descriptions set out below do not necessarily reflect the view of the court, or define the specific issues that will be addressed by the court.]

#00-32 Albertson v. Superior Court, S085899. (B135604; 77 Cal.App.4th 431.)  
Petition for review after the Court of Appeal granted a petition for peremptory writ of mandate. This case concerns whether a district attorney who is pursuing an action for commitment as a sexually violent predator is entitled to the records of the defendant's mental health treatment in the state hospital subsequent to the filing of the petition for commitment and whether those records fall within the provisions of Welfare and Institutions Code section 5328 relating to confidentiality.

#00-33 People v. Cardenas, S085248. (B125574.) Unpublished opinion. Petition for review after the Court of Appeal modified and affirmed a judgment of conviction. The court ordered briefing deferred pending finality of People v. Tillman, 22 Cal.4th 300, which concerns whether a Court of Appeal may decline to consider a claim the trial court failed to impose a mandatory fine when the People have not first sought correction in the trial court.

#00-34 People v. Crayton, S085780. (B125826; 77 Cal.App.4th 307.) Petition

(over)

for review after the Court of Appeal modified and affirmed a judgment of conviction of criminal offenses. The court limited review to whether the trial court erred in failing to obtain an express waiver of the right to counsel in superior court when defendant expressly waived the right to counsel in municipal court, and, if so, what prejudicial error standard applies.

#00-35 People v. Hyun, S085576. (G024340; 77 Cal.App.4th 385.) Petition for review after the Court of Appeal reversed a judgment of conviction of a criminal offense. The court deferred briefing pending decision in People v. Rubalcava, S081209 (#99-167), which concerns the mens rea of the crime of carrying a concealed dirk or dagger.

#00-36 People v. Kelley, S085323. (D030556.) Unpublished opinion. Petition for review after the Court of Appeal reversed an order of commitment as a sexually violent predator. The court ordered briefing deferred pending decision in People v. Torres, S079575 (#99-124), which concerns whether the finder of fact in a sexually violent predator proceeding must determine whether the prior acts were predatory.

#00-37 Saelzler v. Advanced Group 400, S085736. (B125896; 77 Cal.App.4th 1001.) Petition for review after the Court of Appeal reversed a summary judgment in a civil action. This case concerns (1) whether the Court of Appeal applied the proper standard in determining that evidence a property owner failed to provide security measures created a triable issue as to whether such failure was a contributing cause of an injury sustained as a result of a crime committed on the premises, and (2) whether a plaintiff may prove the required element of caution through expert testimony that the presence of proper security measures would have substantially reduced the probability that the crime would occur.

#00-38 People v. Tobias, S0085471. (H018424; 77 Cal.App.4th 38.) Petitions for review after the Court of Appeal affirmed a judgment of conviction of criminal offenses. The court limited review to the issues of whether, in a prosecution for incest with a minor, the trial court erred by failing to give sua sponte cautionary instructions on accomplice testimony and, if so, whether the error was prejudicial per se or subject to harmless error analysis.

#00-39 People v. Trevino, S085410. (B118891, B134606; 77 Cal App.4th 463.)  
Petition for review after the Court of Appeal affirmed in part and reversed in part a judgment of conviction of a criminal offense. This case concerns whether a prior murder conviction special circumstance may be based on a conviction incurred in another state at a time when, had the conduct occurred in California, the defendant would have been within the exclusive jurisdiction of the juvenile court.

#00-40 People v. Vasquez, S085584. (B127211.) Unpublished opinion. Petition for review after the Court of Appeal reversed an order committing as a sexually violent predator. This case concerns whether an out of state conviction that has been expunged under procedures similar to those of Penal Code section 1203.4 may be used as a predicate offense for commitment as a sexually violent predator.

## **DISPOSITION**

#99-17 People v. Gonzales, S075153, was dismissed and remanded to the Court of Appeal.

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